IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WP(C).No. 19138 of 2007(C)

PETITIONER:

K.S. BRAHMADAS,
PANCHAVADI, DAVALAPURAM, NEENDAKARA P.O.,
KOLLAM DISTRICT.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR

RESPONDENTS:

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1. THE REGIONAL TRANSPORT AUTHORITY,
KOLLAM, REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY, R.T.A., KOLLAM.

3. RAJAMMA MATHUNNI PANICKER,
PUTHENVILA VEEDU, KUNDARA P.O., KOLLAM.

R1 & R2 BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 19138 OF 2007 - C

Dated this the 22nd day of June, 2007

J U D G M E N T

The petitioner challenges Ext.P2 timings issued to the petitioner's rival operator and Ext.P4 order of the State Transport Appellate Tribunal, Ernakulam. The petitioner sought variation of his timings which was rejected by Ext.P4. The petitioner submits that the findings of the lower authorities are not correct and therefore, this Court should interfere with the impugned orders. The State Transport Appellate Authority has decided as follows in Ext.P4 judgment:-

> "4. The point:- In the light of the decision in Mithilesh Garg's case well service is not a ground to deny permit. If so question of settlement will arise only after grant. The question to be considered is whether there is clash.
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> 5. The case of the petitioner is that the petitioner departs from Kollam at 6.18 p.m. and reaches Veliyam at 7.23 p.m. 3rd respondent is given a departure time at 6.20 p.m. from Kollam and arrives at Odanavattom at 7.25.
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> 6. Both services start from Kollam and pass through Kannanelloor. But the timings itself shows that the two are not proceeding through identical routes. Of course for some distance 3rd

> respondent trails petitioner by two minutes. On account of that, the person aggrieved would be 3rd respondent and not the petitioner.
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> 7. In the Revision Petition, it is stated that petitioner reaches Veliyam at 7.23 and 3rd respondent at 7.18. There is a gap of 5 minutes. It is not stated at which place one service overtakes or from which place to which place 3rd respondent's service go ahead petitioner's service by 5 minutes. From the preamble of the timing orders, it is clear that the two services pass through different sectors too. 3rd respondent's case is that his service proceeds five minutes ahead petitioner's service only for a distance of 3.8 k.m. Thereafter the destination are different too. In the above circumstances, I find no time clash to the detriment of petitioner's service."

2. Therefore, I find that the decision is entirely on a finding of fact. I am afraid that I cannot interfere with that finding of fact in exercise of my jurisdiction under Article 226 of the Constitution of India.

In the above circumstances, the writ petition is dismissed.

Sd/-

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007